

SECTION I - AUTHORITY

Under the authority vested in the Newton Planning Board by Town Meeting vote in March of 1981, and in accordance with current New Hampshire State Law, including, but not limited to, Chapters 672 through 677 (as amended), particularly sections 674:35 and 674:36 of the Revised Statutes Annotated (RSA) of the State of New Hampshire, the Newton Planning Board, herein after referred to as "Board", adopts the following Regulations governing the Review of the subdivision of land within the Town of Newton, New Hampshire. These regulations repeal and replace all previously adopted Subdivision regulations.

SECTION II - TITLE

These regulations shall be known, and may be cited as, the Town of Newton Subdivision Regulations, hereinafter referred to as Subdivision Regulations or Regulations. The current set of Regulations revise and replace any prior Subdivision Regulations, as amended, and take effect upon adoption by the Board, and filing with the Town Clerk of the Town of Newton, in accordance with RSA 675:6. A copy shall also be filed with the New Hampshire (NH) Office of State Planning (OSP) in accordance with RSA 675:9.

SECTION III - PURPOSE AND INTENT

Consistent with the enabling legislation cited above, the purpose of these Regulations are to ensure that the subdivision of land is consistent with the enumerated purposes of RSA 674:36, as amended, which are incorporated by reference herein, and that all subdivision and development shall be consistent with the following purposes:

- 3.1 Subdivision of land and development shall not be scattered or premature as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of public funds for the supply of such services.
- 3.2 Proposed streets shall be properly arranged and coordinated in relation to other existing or planned streets.
- 3.3 Subdivision and development shall be harmonious with the Town and its environs. Developments must contribute to a rational and safe transportation system, provision of appropriate recreational opportunities, and must not be inconsistent with the recommendations of the Newton Master Plan.
- 3.4 Subdivision of land and development shall be provided with adequate services and utilities. (See 8.2 for specific requirements).
- 3.5 Suitably located streets shall be required of sufficient width to accommodate existing and prospective traffic and to afford adequate light, air, and access for fire-fighting apparatus and equipment to buildings, and be coordinated so as to compose a convenient system.
- 3.6 Subdivision of land and development shall promote and not harm the public's health, safety, and welfare.
- 3.7 Provision of open spaces and green spaces of adequate proportion. (See 8.2.13 for guidance).
- 3.8 Subdivisions that show new streets or narrowing or widening of such streets shall show a park or parks suitably located for playground or other recreational uses purposes. (See 8.2.13).

SECTION IV – JURISDICTION

These provisions shall govern all subdivision of land within the Town of Newton. The Board shall require the submission of plans and application and Board approval prior to the transfer, sale, lease or rent of lots or any other portion of a subdivision of land; before construction, land clearing, or building development is begun; and furthermore, prior to any plat or plan showing the subdivision of land is recorded at the Rockingham County Registry of Deeds.

In all cases, no building permit shall be issued by the building inspector for the construction of any building on land subject to these regulations, until final approval is granted by the Board, and no certificate of occupancy shall be issued until the terms and conditions of the Board's subdivision approval have been fulfilled.

SECTION V - DEFINITIONS

Abutter: abutter shall mean any person whose property is located in New Hampshire adjoins, or is directly across a street or stream from, the land under consideration by the Board. For purposes of receiving testimony only and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration, for purposes of these regulations anyone who owns land within 100' of the site is presumed to be directly affected. For purposes of receipt of notification by the Town of a Board hearing, in the case of an abutting property being under condominium or other collective ownership, the term abutter shall mean the officers of the collective or association, as defined in RSA 356-B:3, XXIII, and any amendments thereto.

Acceptance: an affirmative vote by a majority of the Planning Board at a public meeting that an application contains all of the items required by the subdivision regulations.

Applicant: applicant shall mean the owner of record of the land which is proposed to be subdivided, including any subsequent owner of record who proposes such development, or the duly authorized, in writing, agent of any such owner.

Approval: action by a majority of the Planning Board signifying that the proposal meets all applicable regulations and that there are no unresolved concerns requiring further Board consideration.

Approval with Conditions Precedent: action by a majority of the Board that signifies that not all of the applicable regulations have been met but that require only minor revisions or non-discretionary issues such as receiving state permits, bonds to be posted with the town, or payment of fees. This action is not a final action of the Board and plats shall not be signed. Such approvals may have reasonable time limits for compliance. However, in certain circumstances, such action may result in a final action for purposes of appealing the decision to the courts.

Approval with Conditions Subsequent: action by the Board which includes conditions that appear on the plat or within the minutes or decision which place restrictions on the use of the property or safeguards that must be observed during development of the parcel or once the project is in use. Such issues might include the location of a road, preservation of vegetation and stone walls, etc. Such action is a final action and can result in the signing of plats as long as other issues are met.

Board: shall mean the Planning Board of the Town of Newton, New Hampshire as established under the provisions of RSA 673:2, as amended.

Certified Soil Scientist: a person qualified in soil classification and mapping whom is certified by the State of New Hampshire.

Commercial Uses: As defined by the Town of Newton Zoning Ordinance.

Community Wastewater System: A non-municipal wastewater disposal system that serves more than one lot. When this type of system is proposed, the design and specifications for the same shall be submitted and shall have been certified by a professional engineer qualified and registered under applicable New Hampshire statutes.

Community Water Supply: A non-municipal water supply system that serves more than one lot. When this type of system is proposed, the design and specifications for the same shall be submitted and shall have been certified by a professional engineer qualified and registered under applicable New Hampshire statutes.

Completed Application: his term refers to the application form with all information completed as requested on the form (with the exception of requested waivers from applicable regulations), all attachments, drawings, approvals, additional studies, and other paperwork as requested in the form, elsewhere in these regulations, or required by the Planning Board, and all fees and administrative expenses as indicated in these regulations. The information provided shall provide sufficient information to allow the Board to proceed with consideration and

to make an informed decision. Once accepted an application shall become a public document and carries no restriction as to reproduction or availability.

Critical Areas: Areas of any size within 100 feet of a stream, water body, or poorly or very poorly drained soils; areas containing slope lengths exceeding 25 feet on slopes greater than 15 percent; or critical habitat.

Development: this term shall mean the construction of improvements on a tract or tracts of land, including the enlargement of a structure or physical changes to the site in an effort to accommodate an intended use.

Easement: an easement shall mean the private landowners right or privilege that a person may have in another's land usually for the purpose of installing and/or maintaining utilities, drainage ways, or for access. Such areas shall not be considered presumptive locations for public roadways unless specifically approved as such by the Planning Board.

Engineer or Surveyor: these terms shall denote the duly designated, legally recognized, New Hampshire licensed engineer or surveyor employed by the applicant as may be pertinent to the actual services to be performed in accordance with the provisions set forth in RSA 310-A, as amended.

Hardpan: this term refers to a compact soil layer high in silt and very fine sand, generally low in clay; its permeability is less than 0.6 inches per hour.

Improvement: this term shall refer to site grading, landscaping, street or road construction, and utilities (including water, sewer, electric, gas, storm drainage, and their appurtenances) to be installed or agreed to be installed by the applicant on land to be used for public or private streets and easements or other purposes as are necessary for general development of the site. Agricultural and silvicultural activities are not necessarily improvements under this definition and may require a case-by-case analysis.

Individual waste disposal system: this term refers to any sewage disposal and/or treatment system other than a municipal system or community system.

Individual water supply system: this term refers to any water supply system other than a municipal system or a public water system, which provides potable water.

Lot: this term refers to a piece or parcel occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by these regulations and/or the Newton Zoning Ordinance, and having frontage on a public street.

Lot Line Adjustment: a lot line adjustment or boundary line agreement where no buildable lots are created. Such action requires notice and opportunity to be heard but does not require a public hearing for Board action.

Plat or Plan: refers to the complete set drawings, reports, and accompanying information that comprises a submittal in accordance with these regulations. Statements made by the applicant or applicant's agent at public hearings shall also be considered an integral part of the plat or plan upon which a decision was made.

Public Meeting: is any meeting of the Planning Board that has been properly noticed in accordance with these regulations and/or RSA 91-A, as applicable.

Regional Impact: refers to a proposal before the Planning Board that could reasonably be expected to impact on neighboring municipality, because of factors such as, but not limited to, size, proximity to border, transportation, emissions, water resource impact, and shared facilities.

Right-of-way: refers to any area or interest in land that is intended for public traverse, whether accepted by the town or not.

Seasonal high water table (SHWT): this term refers to the upper limit of the ground water in a soil that becomes seasonally saturated with water.

Sensitive Areas: this term refers to land and resources that possess environmental, cultural, or historic factors that warrant special consideration during Planning Board review. Such area may include, but are not limited to, historic homes, stream banks, wetlands, wildlife habitat (plant and animal), trails, etc.

Stream: A course of water that flows for sufficient time of the year to develop and maintain defined channels by may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on USGS maps.

Street: as set forth in RSA 672:13, street means, relates to and includes street, avenue, boulevard, road, land, alley viaduct, highway, freeway and other ways. The term "streets" shall also apply to areas on any plans designated as streets, roads, lanes, etc.

Subdivision: subdivision means the division of a lot, tract, or parcel (which may include one or more tracts, lots, or parcels) of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, for sale, rent, lease, or building development: in short, any division of land which creates the potential for additional dwelling units or bedrooms. The term includes resubdivision, and when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision for the purpose of these regulations, in accordance with RSA 672:14, as amended.

Submission: this term refers to the process of applying to the Board for site plan review, formal submission is the formal presentation of a site plan to the Board at a public hearing, submission is a prerequisite for acceptance of a complete application.

Upland Soils: refers to soils that are not poorly or very poorly drained in accordance with these regulations.

SECTION VI - PROCEDURE

6.1 FORMAL APPLICATION (Rev. 2008)

Application Procedures shall be in accordance with the Town of Newton Planning Board Policies and Procedures Manual, as amended.

SECTION VII - GENERAL PRINCIPLES

7.1 OVERVIEW

An applicant shall use the following general principles when designing a subdivision plan for land within the Town of Newton. These principles and requirements shall be construed as the minimum requirements. The Board, at its discretion, may require higher standards in individual cases, or may waive certain requirements in accordance with the procedures outlined in these regulations.

7.2 GENERAL PRINCIPLES

An applicant shall observe each and every of the following general principles of residential development.

- A. The subdivision plan shall be in harmony and consistent with the Town's Master Plan, Zoning Ordinance, Official Zoning Map, and the Subdivision Regulations.
- B. Subdivision plans shall conform to all regulations of the Board, and other applicable Town by-laws, ordinances, regulations, and statutes of the local, state and federal governments.
- C. Land unsuitable for development due to the presence of poorly drained soils, very poorly drained soils, flood hazards, steep slopes or other conditions constituting a danger to health, safety, or the environment, shall not be approved for development unless the applicant can present satisfactory evidence or data to the Board, establishing the methods which will be used to overcome such conditions and their adequacy. Land with inadequate capacity for sanitary sewage disposal shall not be developed.

- D. The Board, at its discretion, will not approve scattered or premature development as would impose danger or injury to the general public health, safety and welfare due to the lack of water supply, drainage, sewage disposal, transportation, or other public services; nor will the Board approve such development which will necessitate an excessive expenditure of public funds for the supply of such services.

A "scattered and premature" development is one that poses a danger to the public through insufficiency of services. This section sets up a guide for the Planning Board's determination. The Board must ascertain what amount of development, in relation to what quantum of services available, will present the hazard described in the statute and regulations. At the point where such a hazard is created, further development becomes premature. Although the available services suffice to meet the need of present development, additional development may endanger the well-being of residents both within and contiguous to the development. This section and the statute authorize the Planning Board to find such a subdivision to be premature.

The focus of the inquiry is upon the effect of the proposed development on the community, not the effect of further development in general on the community. Exposing additional households to the risk that emergency vehicles would not be able to respond when services are required or other unacceptable risks may be the basis for a finding of prematurity.

The application of subdivision regulations designed to prevent "scattered" or "premature" development focuses more directly on a particular development, including consideration of the highest and best use of a particular tract of land, the compatibility of a particular use with the remainder of the community, and the protection of the financial interests of the purchasers, subdividers, and the local government unit. A finding that a subdivision of a parcel of land would be premature does not necessarily mean that the land cannot be developed. If the construction of certain off-site improvements is feasible, then the application may be conditionally approved upon the provision of off-site improvements, which would eliminate the hazards that would otherwise cause the development to be premature.

- E. If the owner places restrictions on any portion of the site greater than those required by these regulations, the Site Plan Review Regulations or the Zoning Ordinance, such restrictions or reference thereto may be required to be indicated on the subdivision plan, or the Board may require that restrictive covenants be recorded with the Rockingham County Registry of Deeds in form approved by the Town Attorney.
- F. All subdivision plans shall be reviewed to ensure the protection of environmental quality during and after construction.
1. Dust and erosion shall be prevented through the planting of ground cover or installation of other surfaces.
 2. Each significant natural feature within the site including large or unusual trees, watercourses, natural stone outcroppings, and other scenic features shall require Board approval before removal of such features.

The significant natural attributes and major features of the site listed above, and scenic views (both from the site and onto or over the site), shall be retained to the maximum extent feasible taking economics and cost into account.
 3. Provisions shall be made for adequate storm and surface water drainage facilities in order to properly drain the site while minimizing downstream flooding.
- G. Streets and roads shall be constructed so as to minimize dust, erosion, and run-off conditions that would have a detrimental effect on abutting or neighboring properties.
- H. Grading, paving and storm drainage systems, shall be constructed so that development will not result in erosion/sedimentation of streams, or damage to abutting properties and roads.
- I. Residential abutters shall be protected against undue noise, glare, unsightliness, or other nuisances, which are detrimental to property values.

- J. Adequate pedestrian and bicycle safety and access shall be provided.
- K. Development shall provide for an appropriate opportunity for ground water recharge. This shall be analyzed in light of impervious lot coverage, drainage, and location within identified aquifer as per the Newton Water Resources Management and Protection Program.
- L. Constructed travelways shall be of sufficient width to accommodate existing and prospective traffic, and to afford adequate light, air, and access to buildings for fire fighting apparatus and other emergency equipment.
- M. Developments shall be generally consistent with the Town ' s Master Plan.
- N. All development shall minimize the encroachment of neighboring land uses.
- O. The development of the site shall not change the topography of the land to be developed by the removal of trees, shrubs, soils and rocks, except that which is necessary for the building of the roadways, structures and accessory and incidental development as shown on the plan.